

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 189

BY BUSINESS COMMITTEE

AN ACT

RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2041, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO THE REQUIREMENTS AND RESPONSIBILITIES OF REAL ESTATE BROKERS AND THEIR LICENSEES IN CONNECTION WITH TRUST ACCOUNTS AND ENTRUSTED PROPERTY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-2041, Idaho Code, be, and the same is hereby amended to read as follows:

54-2041. TRUST ACCOUNTS AND ENTRUSTED PROPERTY. (1) A licensed Idaho real estate broker shall be responsible for all moneys or property entrusted to that broker or to any licensee representing the broker. For purposes of this section, moneys or property shall not be considered entrusted to the broker or to any licensee representing the broker when the parties to the transaction have instructed the broker or its licensees, in writing, to transfer such moneys or property to a third party, including, but not limited to, a title, an escrow or a trust company if upon transfer, the broker or its licensees have no right to exercise control over the safekeeping or disposition of said moneys or property.

(2) Unless otherwise instructed by the parties in writing to deposit entrusted moneys on a later day, immediately upon receipt, the broker shall deposit entrusted moneys in a neutral, qualified trust fund account pursuant to section 54-2042, Idaho Code, and shall properly care for any entrusted property.

(3) Only moneys relating to a regulated real estate transaction may be deposited in the broker's real estate trust fund account. Entrusted moneys shall not be commingled with moneys of the broker, firm or agent, except for that minimum amount that may be required to open and maintain the trust account or as otherwise allowed by subsection (7) of section 54-2042, Idaho Code.

(4) A licensed real estate broker shall not be responsible for depositing moneys into the broker's real estate trust account, nor responsible for creating a real estate trust account with an approved depository as set forth in section 54-2042, Idaho Code, when the parties to the transaction have instructed the broker or its licensees, in writing, to transfer such moneys to a third party, including, but not limited to, a title, an escrow or a trust company. Provided however, a broker shall be responsible for maintaining a record of the time and date that said moneys or property was transferred from the broker to a third party.

(5) The real estate broker shall remain fully responsible and accountable for all entrusted moneys and property until a full accounting has been given to the parties involved.